

REMARKS

Applicant thanks the Examiner for the Advisory Action of April 27, 2005. Because the Three Month Statutory Period for the Final Office Action was set for May 15, 2005, and the Advisory Action was mailed before that day, a two month extension fee is included herewith.

Claims 1 through 5 are pending in the Office Action. The Office Action rejected claims 1-3 and 5 as being anticipated and claim 4 as being obvious over the prior art. Applicant has amended claim 1 to further clarify the invention as recited therein. Applicant respectfully submits that the amendment to claim 1 is based in the specification as originally filed, that such amendments do not add new matter, and requests entry thereof. Applicant respectfully requests reconsideration of claims 1 through 5 in view of the following remarks.

Please note that Applicant's remarks are presented in the order in which the issues were raised in the Office Action for the convenience and reference of the Examiner. In addition, Applicant requests that the Examiner carefully review each of the references discussed below to ensure that Applicant's understanding and discussion of the references is consistent with the Examiner. Further, the following remarks are not intended to be an exhaustive enumeration of the distinctions between any particular reference and the claimed design. Rather, the distinctions identified and discussed below are presented solely by way of example to illustrate some of the differences between the claimed design and that reference.

A. Section 102 Rejection

Paragraphs 2 and 3 of the Office Action rejected claims 1-3 and 5 under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 5,894,923 to Hamstra et al. (hereinafter *Hamstra*). *Hamstra* discloses a package or set of labels consisting of any desired number of panels of labels. Each panel consists of a label stock which may be configured into one or more labels

which can be peeled away from the panel. Each panel also includes backing paper onto which is adhered the label stock. The backing paper has a plurality of folding means (e.g., perforations) to allow the label to be folded (e.g., accordioned) in a compact package. The package includes means for supporting the package from a support structure. For example, a hole may be formed in each panel which holes align when the package is compressed so that the package can be suspended from a prong on a peg board. The package also includes securement means (e.g., a staple) that holds the panels together as a group. After the panels are formed and folded along the folding means, the panel is stapled and packed in a shipping container. Upon reaching a retail outlet, the packages are threaded onto a prong or other supporting structure.

However, the Hamstra reference does not teach “A label for use with a device, the device being selectively adjustable between a retracted position and an extended position . . . at least a portion of the label being adapted to be connected to the selectively adjustable device” as recited in claim 1. Applicant refers the Examiner to U.S. Patent No. 6,786,514 from which this application was continued in which similar claims were allowed. Specifically, claim 11 of the ‘514 patent (originally, claim 17) recites:

11. A label for use with a device, the device being selectively adjustable between a retracted position and an extended position, the label comprising:

- a first end;
 - a second end; and
 - an intermediate portion being selectively adjustable between a retracted position and an extended position, wherein in the retracted position a portion of the intermediate portion is obscured, and wherein in the extended position, at least a portion of the intermediate portion that was obscured is clearly seen or easily distinguished,
- wherein at least one of the first end and the second end is adapted to be connected to the selectively adjustable device.

Applicant notes that claim 11 was issued in view of the Hamstra reference without requiring any amendment. In the Notice of Allowability, mailed April 22, 2004, the Examiner stated as reasons for allowance, "None of the references cited separately or together teach the design of a label for use with a device, the device being selectively adjustable between a retracted position and an extended position, the label . . . adapted to be connected to the device" As such, Applicant respectfully submits that claim 1 is allowable for substantially the same reason that claim 11 of the '514 patent was considered allowable. In view of the foregoing, Applicant respectfully requests that the anticipation rejection with respect to claim 1 be withdrawn.

Claims 2-3 and 5 depend from independent claim 1 and thus incorporate the limitations thereof. As such, Applicant respectfully submits that claims 2-3 and 5 are allowable for substantially the same reasons that claim 1 is allowable and requests that the anticipation rejection with respect to claims 2-3 and 5 be withdrawn.

B. Section 103 Rejection

Paragraphs 4 and 5 rejected claim 4 as obvious under 35 U.S.C. 103(a) in view of *Hamstra*. The Office Action asserted that an intermediate portion comprising an S-shaped portion would have been an obvious matter of design choice. However, Applicant respectfully asserts that even if the label package taught by *Hamstra* were modified to have an S-shaped intermediate portion, *Hamstra* still does not teach "A label for use with a device, the device being selectively adjustable between a retracted position and an extended position . . . at least a portion of the label being adapted to be connected to the selectively adjustable device." As such, Applicant respectfully requests that the obviousness rejection with respect to claim 4 be withdrawn.

C. Conclusion

In view of the foregoing, Applicant respectfully submits that claims 1-5 are in condition for allowance and favorable action is respectfully requested. In the event of any question, the Examiner is respectfully requested to initiate a telephone conversation with the undersigned.

Dated this 14th of July 2005.

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "Sara D. Jones".

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